

EVIDENCE — Documentary and Physical Evidence — Authentication of business records — Revised 3/2010

Rule 803(6), Ariz. R. Evid., provides that business records are not hearsay.

Nevertheless, the proponent of the evidence must lay a proper foundation before those records are admissible. Rule 901(a)(1), Ariz. R. Evid. In *State v. Morales*, 170 Ariz. 360, 824 P.2d 756 (App. 1991), the defendant was driving drunk and struck another vehicle, killing the occupants and seriously injuring himself. He was taken to the hospital for treatment; officers suspected he had been drinking and asked for a sample of his blood. Hospital personnel testified that each trauma patient entering the hospital was assigned a unique code name from a prepared list. *Id.* at 362, 824 P.2d at 758. Later, when the hospital learned the patients' names, the code name and the patient's actual name were cross-indexed. *Id.* The request from the police and the tubes of his blood were marked only with the code name. The defendant argued that it was improper hearsay to use the hospital's records to identify him with the code name. The Court of Appeals noted that the business records were not hearsay. The Court then found that the State's evidence was sufficient to establish foundation for the business records, noting, "The linking of the trauma code name to the patient's true identity is clearly part of the 'regular practice of [the hospital's] business activity.'" *Id.* at 363, 824 P.2d at 789.

Whether business records are sufficiently reliable to be admitted is left to the sound discretion of the trial court. *State v. Petzoldt*, 172 Ariz. 272, 275, 836 P.2d 982, 985 (App.1991). In *Petzoldt*, a large-scale drug dealer hired an accountant to help him maintain business records. The accountant duly recorded the amounts of money paid, drugs received, money received, as well as the first names or nicknames of the drug

buyers. The police eventually seized the account books and found that they recorded several sales of drugs to "Rudy." The accountant testified that the records were kept as part of the drug business and that the figures were entered into the books at the time the marijuana was weighed and distributed. He also identified the defendant Rudolph Petzoldt as the "Rudy" he had met while working in the drug business, and testified that there was no other "Rudy" involved in the sales. The State introduced the account books into evidence over the defense's objection. On appeal, Petzoldt argued that the books did not qualify as "business records" under Rule 803(6) because the State had not identified every person who made entries in the books. The Court of Appeals disagreed, stating, "[T]here is no requirement that the person whose first-hand knowledge was the basis of the entry be identified, so long as it was the business entity's regular practice to get information from such a person." *Id.* at 275, 836 P.2d at 985, *quoting Saks International Inc. v. M/V "Export Champion,"* 817 F.2d 1011, 1013 (2d Cir. 1987).